

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
No. 3:08 CV 214-W**

**WILLIAM TROY SMITH,
As Administrator of the Estate of
DIANE HUNT**

Plaintiff,

v.

**TWAN R. RODDEY
in his individual official capacity,**

Defendant

ORDER OF REMAND

THIS MATTER is before the Court on the Plaintiff's motion to remand the action following the filing of an Amended Complaint. The original Complaint contained a claim under 42 U.S.C. §1983 for denial of equal protection and was removed to the Court by the Defendant under 28 U.S.C §§1331 and 1446. The Amended Complaint, filed prior to any responsive pleading by Defendant, contains no federal claims. The original and amended Complaints both allege that the parties are citizens of North Carolina, so diversity of citizenship is not at issue and was not asserted by Defendant as a ground for Removal. Moreover, defense counsel has informed chambers' staff telephonically that the Defendant consents to remand to state court.

Therefore, pursuant to 28 U.S.C. § 1367(c), the Court declines supplemental jurisdiction over the remaining state law claim and remands this matter to state court. Accord Hinson v. Norwest Financial South Carolina, Inc., 239 F.3d 611, 617 (4th Cir. 2001) (once federal claim was disposed by settlement, district court had discretion to remand remaining state law claims to state court); and Cook v. CSX Transp. Corp., 988 F.2d 507, 513 (4th Cir. 1993) (following

dismissal of federal claims, district court had discretion to decline supplemental jurisdiction of state law claims).

A certified copy of this Order shall be mailed by the Clerk to the Mecklenburg County Clerk of Superior Court.

SO ORDERED.

Signed: June 16, 2008

Carl Horn, III

Carl Horn, III
United States Magistrate Judge

